

BOARD OF SUPERVISORS  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in the Board Room, York Hall, Yorktown, Virginia, on the \_\_\_\_ day of \_\_\_\_\_, 2003:

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Present

Vote

James S. Burgett, Chairman  
Thomas G. Shepperd, Jr., Vice Chairman  
Walter C. Zaremba  
Sheila S. Noll  
Donald E. Wiggins

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On motion of \_\_\_\_\_, which carried \_\_\_\_, the following ordinance was adopted:

AN ORDINANCE TO AMEND THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) TO ESTABLISH A NEW SECTION 24.1-377, YORKTOWN HISTORIC DISTRICT OVERLAY, AND TO ADOPT THE COMPANION YORKTOWN DESIGN GUIDELINES TO BE USED IN THE IMPLEMENTATION AND ADMINISTRATION OF THE YORKTOWN HISTORIC DISTRICT

WHEREAS, the York County Board of Supervisors has sponsored Application No. ZT-69-02 to allow consideration of the proposed Yorktown Historic District Overlay District and the accompanying Yorktown Design Guidelines, pursuant to the authority provided under Section 15.2-2306 of the Code of Virginia (1950, as amended); and

WHEREAS, subsequent to referral by the Board, the Planning Commission considered these proposed amendments and guidelines in great detail and had benefit of the extensive review and recommendations provided by the Yorktown Design Guidelines Study Committee; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on the proposed amendments in accordance with applicable procedures and has recommended approval and adoption; and

WHEREAS, the Board of Supervisors has conducted a duly advertised public hearing on this application and several work sessions and has provided additional opportunities for public review and comment and has taken all comments and suggestions into consideration in its deliberations; and

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WHEREAS, the Board of Supervisors has determined that the proposed amendments and guidelines are appropriate and necessary for the proper protection of the special historic and architectural character of Yorktown; and

WHEREAS, the Board is of the opinion that the proposed amendments strike an appropriate balance between the public goals of preservation and enhancement of the special character of Yorktown and landowners' desires to avoid unnecessary regulation;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the \_\_\_\_\_ day of \_\_\_\_\_, 2003 that it does hereby approve Application No. ZT-69-02 to amend the York County Zoning Ordinance to include a new section, 24.1-377 – Yorktown Historic District Overlay, as set forth below, and to adopt the proposed Yorktown Design Guidelines, as set forth in the document entitled “Draft Yorktown Historic District and Design Guidelines,” dated November 14, 2002, and to approve and adopt the boundaries of the Yorktown Historic District, as delineated in said document.

BE IT STILL FURTHER ORDAINED that the effective date of Section 24.1-377 and the accompanying Design Guidelines shall be ~~November~~ June 1, ~~2004~~, ~~2003~~ in order to allow time for appointment, organization and training of the Historic Yorktown Design Committee and also for the sponsorship and processing of a text amendment application to eliminate the requirement for Board of Supervisors review and approval of single family detached residential construction or additions in the YVA District.

Add Section 24.1-377, as follows:

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## **Sec. 24.1- 377          Yorktown Historic District Overlay**

### **(a)      Statement of Intent**

The Yorktown Historic District is intended to promote and protect the historical significance, appearance, architectural quality, and general welfare of the Yorktown community through the identification, preservation, and enhancement of landmarks, buildings, structures, and areas which have special historical, cultural, architectural, or archaeological significance as provided by Section 15.2- 2306, Code of Virginia. The Historic District and the accompanying guidelines are drawn with the objective of protecting and improving the village character and ambiance and ensuring its preservation for the benefit of the residents of Yorktown and York County.

The preservation of the historical significance of Yorktown is of paramount importance and it is recognized that the deterioration, destruction, or alteration of Yorktown landmarks, buildings, structures, and significant areas may cause the permanent loss of unique resources which are of great value to the people of Yorktown and York County, the Commonwealth of Virginia, and the nation. These special controls and incentives are warranted to ensure that such losses are avoided when possible.

The purposes for establishing a special Yorktown Historic District zoning classification are:

- (1) To preserve and improve the historical significance of Yorktown for all residents of York County by protecting familiar and treasured visual and historical elements in the area.
- (2) To promote tourism by protecting historical and cultural resources attractive to visitors and thereby supporting local businesses.
- (3) To stabilize and improve property values by providing guidelines for the upkeep and rehabilitation of older structures and by encouraging desirable uses and forms of residential and commercial development.
- (4) To educate residents on the local cultural and historic heritage as embodied in the Historic District and to foster a sense of pride in this heritage.
- (5) To prevent the encroachment of buildings and structures which are architecturally incompatible with their environs within areas of architectural harmony and historic character.

(b) Definitions

- (1) *Historic Yorktown Design Committee (HYDC)* - A five-member board appointed by the York County Board of Supervisors, the purpose of which is to review and determine the appropriateness of proposed actions involving properties within the Historic District.
- (2) *Certificate of Appropriateness* - A statement signed by the Chair of the Historic Yorktown Design Committee, or his designee, which certifies the appropriateness of a particular request for the construction, alteration, reconstruction, repair, restoration, demolition, or razing of all or a part of any building or structure within the Historic District, subject to the issuance of all other permits needed for the matter sought to be accomplished.
- (3) *Contributing Building/Structure* - A building or structure within the Yorktown Historic district that was constructed between and including the years 1866 to 1945.
- (4) *Demolition* - The dismantling or tearing down of all or part of any building or structure and all operations incidental thereto.
- (5) *Exterior Features* - The architectural style, general design, and general arrangement of the exterior of a building or structure, including the kind and texture of the building material and the type and style of all windows, doors, light fixtures, signs, other appurtenant fixtures.

- (6) *Pivotal Building/Structure* - A building or structure within the Yorktown Historic District that was constructed in 1865 or before.
- (7) *Non-Contributing Building/Structure* – A building or structure within the Yorktown Historic District that was constructed in 1946 or later.
- (8) *Yorktown Design Guidelines* – The architectural design guidelines adopted by the Board of Supervisors in conjunction with the adoption of this overlay district and any subsequent amendments as may be adopted by the Board of Supervisors from time to time.

(c) Application of District

The Yorktown Historic District, as designated by the Board of Supervisors, shall be shown as an overlay to the underlying zoning district(s) and shall serve as a supplement to those underlying district regulations.

(d) Certificate of Appropriateness

- (1) Within the Yorktown Historic District, no historic landmark or building or structure, including fences and signs, shall be erected, reconstructed, altered, restored, demolished, or moved until a certificate of appropriateness for such work has been issued as provided herein. The certificate of appropriateness shall be displayed on the work site.
- (2) In any case where the work to be performed requires the issuance of a permit or approval under other terms of the Zoning Ordinance or York County Code, no such permit shall be granted until a certificate of appropriateness has been approved and issued as required herein. The certificate of appropriateness shall be displayed on the site.

(e) Actions Exempted from Review

Certain actions that are deemed not to permanently affect the character of the historic district shall be exempt from review. Such actions shall include the following and any similar actions, as determined by the Zoning Administrator, that will have no more effect on the character of the district than those listed:

- (1) Interior alterations.
- (2) Maintenance or repair which does not result in a change in exterior features and appearance (such as repainting resulting in the same color, re-roofing with a material that matches the existing, or gutter replacement that matches the existing). Painting of previously unpainted masonry surfaces is not exempt from review.

- (3) Changes to a structure that do not involve addition or demolition of building floor area or volume and are not subject to view from adjacent properties or rights-of-way.
- (4) Removal of television or radio antennas, solar collectors, and similar appurtenances.
- (5) Demolition of any building or structure that the Building Official orders, in writing, because of an unsafe or dangerous condition.

(5) Landscaping.

(d) Actions Permitted with Administrative Approval

- (1) Certain actions that are deemed to have only a minor effect on the character of the historic district may be approved by the Zoning Administrator upon submittal of an appropriate application form. Such actions shall include the following and any similar actions, as determined by the Zoning Administrator, which will have no more effect on the character of the district than those listed.
  - a. Additions or deletions to a structure which will not substantially change the architectural character of the structure and which are generally hidden from public view.
  - b. Construction of piers, docks, and bulkheads.
  - c. Outside storage on a business property that does not involve structural changes.
  - d. Painting the exterior of a structure when using one of the colors shown on the approved palette of colors.
  - e. Demolition or moving of any building or structure other than a Pivotal structure.
- (2) The Zoning Administrator shall be guided by the standards and guidelines referenced in Section 24.1-377(h) and shall have the authority to request modifications of a specific proposal in order that the proposal may comply with such standards and guidelines. In any case where the Zoning Administrator is uncertain of his or her authority to act on a particular application under this section or in any case where the Zoning Administrator and the applicant cannot agree on changes in the proposal, the application shall be referred to the HYDC for action. In the case of disapproval by the Zoning Administrator, the applicant may appeal the decision within thirty (30) days to the HYDC. The Zoning Administrator shall keep a record of decisions under this section and shall report on such decisions to the HYDC at its next regular meeting.

(g) Actions Requiring Approval by the Historic Yorktown Design Committee

- (1) All actions not covered under Sections 24.1-377(e) or 24.1-377(f) above and any other actions not specifically exempted by the terms of this Article shall be permitted only after issuance of a certificate of appropriateness by the HYDC. Such actions include, but are not limited to:
  - a. Razing, demolishing, or moving a *Pivotal* building or structure.
  - b. Constructing a new building or structure.
  - c. Any addition to, or modification of, a building or structure which alters the square footage of the structure or otherwise alters its size, height, contour or outline, or color.
  - d. Any change or alteration of the exterior features and architectural style of a building, including removal or rebuilding of porches, dormers, cupolas, stairways, terraces, and the like.
  - e. Addition or removal of one or more stories of a building or alteration of the roofline of such structures.
  - f. Construction of walls or fences.
  - g. Any addition of, or alteration to, a sign.

(h) Standards and Guidelines for Review

In considering any request for a certificate of appropriateness, the following standards, and the Yorktown Design Guidelines, as adopted by the Board of Supervisors, and as may amended from time to time (which are incorporated into this ordinance by reference), shall be considered.

- (1) Generally, the following should be considered:
  - a. The relationship of the proposed changes to the historic, architectural or cultural significance of the structure and the surrounding district.
  - b. The appropriateness of the change in terms of architectural compatibility with the distinguishing historic and architectural features of the structure and the district. Architectural compatibility shall be judged in terms of a proposed structure's mass, dimensions, materials, color, ornamentation, architectural style, lighting, and other criteria deemed pertinent.

- (2) For renovations to Pivotal structures (pre-1865), the conformance of the change with the standards established by the U. S. Secretary of the Interior for the rehabilitation of historic buildings.
- (3) For new construction, the following shall apply:
  - a. The design for new construction shall be sensitive to and take into account the special characteristics that the district is established to protect. Such considerations are to include building scale, height, orientation, site coverage, spatial separation from other buildings, facade and window patterns, entrance and porch size and general design, materials, texture, color, architectural details, roof forms, emphasis of horizontal or vertical elements, walls, fences, and any other features deemed appropriate by the reviewing authority (Zoning Administrator or HYDC).
  - b. The design of the new construction shall recognize the relationships among buildings in the immediate setting rather than specific styles or details since architectural styles and details may throughout the Historic District.
- (4) For signage, the following shall apply:
  - a. Signs shall be compatible with and relate to the design elements of the building they are associated with or attached to, rather than obscure or disrupt such design features.
  - b. Signs shall be compatible with other signs and buildings in the district and adjacent to the property.
  - c. Compatibility shall be judged in terms of dimensions, materials, color, letter style and placement, lighting, and overall general effect on the building and Historic District.
- (5) For accessory structures, the following shall apply:
  - a. Existing characteristic features such as trees, walls, fencing, walkways and other similar structures or site features that reflect the building's or district's history and development shall be retained.
  - b. Accessory structures shall be appropriate to and compatible with the architectural features of the primary structure and the district.
- (i) Historic Yorktown Design Committee
  - (1) **Creation** - For the general purposes of this Article and specifically to preserve and protect the historic character of Yorktown, there is hereby created a committee to be known as the Historic Yorktown Design Committee

(HYDC) to be composed of ~~five (5)~~ three (3) voting members. The members of the HYDC shall be appointed by the Board of Supervisors. The Board of Supervisors may, at its discretion, also appoint up to two alternate members to be called upon to sit with the Committee as regular voting members from time to time to ensure that a quorum is present.

- (2) **Terms** - The members of the HYDC shall serve overlapping terms of four (4) years. Initially, one (1) member shall be appointed for a term of one (1) year, one (1) member shall be appointed for a term of two (2) years, one (1) member shall be appointed for a term of three (3) years, ~~and two (2) members shall be appointed for a term of four (4) years.~~ Thereafter, all appointments shall be made for a term of four (4) years. Reappointments shall be in accordance with such policies as may be established by the Board of Supervisors. Vacancies on the HYDC shall be filled within sixty (60) days of the vacancy occurring.
  - (3) **Removal** - Any member of the HYDC may be removed from office by the Board of Supervisors for inefficiency, neglect of duties, or malfeasance. An appointment to fill a vacancy shall be only for the unexpired term of the vacancy.
  - (4) **Composition of the Board** - Members of the HYDC shall be residents of York County and, ~~One (1) member shall be a member of the York County Planning Commission and a minimum of two (2) members~~, shall be residents or property owners from the Yorktown Historic District.
  - (5) **Officers** - The HYDC shall elect from its own membership a chair and vice chair who shall serve annual terms and may be elected to successive terms. The secretary of the HYDC shall be a staff member in the employ of the county
  - (6) **Powers and Responsibilities** - The HYDC shall be responsible for administering and overseeing the implementation of the Yorktown Design Guidelines and shall have the power and authority to issue or deny certificates of appropriateness for construction, reconstruction, exterior alteration, demolition, and relocation within the historic district. The HYDC shall also assist and advise the Board of Supervisors and property owners in matters involving historically significant sites and buildings or other properties in the Historic District.
  - (7) **Records of Meetings** - A record shall be kept of all pertinent information presented at all meetings and of all decisions by the HYDC.
  - (8) **Annual Report** - The HYDC shall report on an annual basis to the Board of Supervisors on its activities.
- (j) Applications for and Processing of Certificates of Appropriateness



- (1) **Pre-application Conference** - Prior to the formal submission of a proposed plan and application for a certificate of appropriateness, the applicant or his or her representative may hold a conference with York County staff concerning the proposal. At that time the applicant is encouraged to submit and discuss preliminary studies of the concept of the proposed action and seek comments and recommendations.
- (2) **Information Required** - Applications for certificates of appropriateness shall be submitted on a form available from the County. In general, information required will include a site plan, if appropriate, current color photographs of the subject building, structure or site and adjacent buildings and sites, elevations where exterior changes are proposed, information on proposed ground disturbances, and samples of or information describing the materials to be used, including color samples. Other material as may be necessary will be listed on the application form. The staff or the HYDC may also require additional information including, but not limited to, models, visual simulations, and color renderings.
- (3) **Frequency of Meetings** - The HYDC shall hold an annual meeting each year during the month of January and shall, at the annual meeting, adopt a schedule of regular monthly meeting dates for the balance of the calendar year. The HYDC shall meet at least once in each calendar month, provided, however, it need not meet if no applications have been filed or are pending. Applications for HYDC review shall be filed at least twenty-one (21) days prior to the date of the meeting at which the request is to be considered.
- (4) **Public Notice** - Meetings of the HYDC shall be open to the public. Notice shall be given to all applicants and adjacent property owners and notice of all meetings of the HYDC, and the applications to be reviewed shall be set at least seven (7) days prior to the meeting. A sign shall be posted on the subject property by the County indicating the date of the hearing to consider the applicant's request. The HYDC may accept written and oral comments concerning applications under consideration.
- (5) **Standards and Guidelines for Review** - The HYDC shall be guided in its discussion and review of applications by the standards and guidelines set forth in Section 24.1-377(h).

The HYDC shall give reasons for its decisions, shall act promptly on applications before it, and shall coordinate its procedures with those of other agencies and individuals charged with the administration of this Chapter and other provisions of the York County Code.

The HYDC is not required to limit new construction, alterations, or repairs to the architectural style of any one period and may seek advisory assistance from experts in such fields, as it may deem necessary and appropriate.

- (6) **Decisions and Findings** - In all final decisions rendered, the HYDC shall briefly state its findings in writing, and in the case of disapproval, it may make recommendations to the applicant with respect to changes in the design, texture, material, color, line, mass, dimension or lighting of the alteration or improvements that would make it approvable. Such findings and recommendations shall be set forth in the regularly maintained minutes of the HYDC.

Within five (5) business days of approval of a request, a certificate of appropriateness, signed by the secretary of the HYDC and the Zoning Administrator and bearing the date of issuance, shall be issued, attached to the application, and forwarded to the applicant. Once the certificate has been issued, the Zoning Administrator shall routinely inspect the work being performed to ensure compliance with the terms of the certificate of appropriateness.

- (7) **Timely Action** - The HYDC shall have sixty-five (65) days from the receipt of a completed application to render its decision. If no decision has been made by the HYDC within this time frame, and no mutual agreement between the applicant and the HYDC has been made for the extension of the time period, the Zoning Administrator shall submit the application to the Board of Supervisors, which shall review the application in the same manner as if a decision of the HYDC had been appealed.

- (8) **Action on Related Permits** - The Building Official shall not issue a permit for any erection, reconstruction, exterior alteration, restoration, demolition, or razing of a building or structure in the Historic District until the same has been reviewed and approved by the Zoning Administrator, the HYDC as required herein, or on appeal by the Board of Supervisors or the circuit court.

- (8) **Expiration of Certificates of Appropriateness** - Any certificate of appropriateness issued pursuant to this article shall expire twelve (12) months from the date of issuance if the work authorized thereby has not been commenced and diligently and substantially pursued. Such certificate shall also expire and become null and void if such authorized work is suspended or abandoned for a period of twelve (12) months after being commenced. On written request from an applicant, the HYDC may grant a single extension of its approval for a period of up to one (1) year if, based upon submissions from the applicant, the HYDC finds that conditions on the site and in the area of the proposed project are essentially the same as when approval originally was granted.

- (j) Applications for Demolition (Reference Section 15.2-2306 A.3, Code of Virginia)

- (1) Prior to the issuance of a certificate of appropriateness for demolition of a *Pivotal* building or structure within the district, the HYDC shall make the following findings:

- a. The purpose and necessity of the demolition are in accordance with the intent of the historic district.
  - b. Loss of the structure would not be adverse to the district or the public interest by virtue of its uniqueness or its significance to the district.
  - c. Demolition would not have an adverse effect on the character and surrounding environment of the district.
  - d. Where a development plan for a new use of the site is proposed and submitted, the HYDC shall review the proposed development pursuant to the regulations and intent of the district. Consideration shall be given to the benefits of the proposed development and the trade-offs for demolition of the building or structure.
- (2) In addition to the authorization procedures set out above and the right of appeal as set forth in Section 24.1-377(1), the owner of a *Pivotal* building within the district shall as a matter of right be entitled to demolish such Pivotal building provided that:
- a. The property owner has applied, on appeal, to the Board of Supervisors for such right; and
  - b. The owner has for the period of time set forth in the time schedule and cost parameters set forth in Section 15.2-2306 A. 3. of the *Code of Virginia*, 1950, as it may be amended from time to time, made a bona fide offer to sell such building and the land pertaining thereto, to the county, or to any person, firm, corporation, government or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the building and the land pertaining thereto; and
  - c. No bona fide contract binding upon all parties thereto shall have been executed for the sale of any such building and the land pertaining thereto, prior to the expiration of the application time period set forth in the time schedule contained in Section 15.2-2306 A. 3. of the *Code of Virginia*, 1950, as it may be amended from time to time.
  - d. Before making a bona fide offer to sell, as provided herein, an owner shall first file a statement with the Zoning Administrator identifying the property, stating the offering price, the date the offer of sale is to begin and the name of the real estate agent. No time period as set forth in the schedule above shall begin to run until such statement has been filed. Within fourteen (14) days of receipt of a statement, the Zoning Administrator shall distribute copies to the Board of Supervisors, the Historic Yorktown Design Committee, and the County Administrator.

- e. Any appeal taken to the Court with respect to a decision of the Board of Supervisors concerning demolition shall not affect the right of the owner to make the bona fide offer to sell referred to above; provided, however, that no offer to sell shall be made more than one year after a final decision by the Board of Supervisors but, thereafter, the owner may renew his request to the Board of Supervisors for authorization of the demolition.

(k) Appeals

- (1) **Appeal to the Board of Supervisors** - In any case in which the applicant is dissatisfied with the decision of the HYDC ~~on an~~ on an application for a certificate of ~~appropriateness~~ the appropriateness the applicant may appeal the decision to the Board of Supervisors within thirty (30) days of the decision by filing a notice of appeal with the Clerk of the Board of Supervisors. In exercising its powers, the Board of Supervisors may, in conformity with the provisions of this Article, reverse or affirm, wholly or partly, or may modify, an order, requirement, decision, or determination made by the HYDC and make such order, requirement, decision, or determination as ought to be made.
- (2) **Appeal to the Circuit Court** – The applicant or the aggrieved owner of any property that is adjacent to the subject property shall have the right to appeal any final decision of the Board of Supervisors pursuant to this article to the Circuit Court by following the procedure set out in Section 15.2-2306- of the *Code of Virginia*, 1950, as amended.

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